

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION

Item No. 9
Doc. No. 2

TENTATIVE ORDER NO. R9-2005-0166
ADMINISTRATIVE ASSESSMENT OF CIVIL LIABILITY
AGAINST
FIELDSTONE COMMUNITIES, INC.
AND
FLORIDA SOUTHCHASE, L.P.
VIOLATIONS
OF
CALIFORNIA WATER CODE SECTION 13376
AND
STATE WATER RESOURCES CONTROL BOARD
ORDER NO. 99-08-DWQ

The San Diego Regional Water Quality Control Board (hereafter Regional Board), having received an offer by Fieldstone Communities, Inc. (hereafter Fieldstone) and Florida Southchase, L.P. (hereafter Southchase) (hereafter collectively referred to as Dischargers) to waive its right to a hearing regarding violations alleged in Complaint Nos. R9-2005-0107 and R9-2005-0108, dated March 17, 2005, (Complaints) and settle its civil liability for any violations alleged therein by paying Civil Liability in the amount of \$262,500 (instead of the \$262,500 and \$242,500 respectively recommended in the Complaints), and having provided public notice thereof and not less than thirty (30) days for public comment on the settlement offer, and having received no comments objecting to the settlement, and having considered the settlement offer, finds as follows:

1. The State Water Resources Control Board (hereafter State Board) has issued updated statewide general waste discharge requirements for discharges of storm water runoff associate with construction activities involving disturbance of one acre of soil, or more. [*Order No. 99-08-DWQ, NPDES No. CAS000002 (Order).*]
2. Fieldstone owns approximately 72 acres, while Southchase owns approximately 383 acres of property in the “Morro Hills” development located along Douglas Drive and Vandegrift Boulevard, City of Oceanside, San Diego County, California. Fieldstone filed a “Notice of Intent,” as required by Section A.2. of Order No. 99-08-DWQ on May 2, 2003 (WDID No. 9 37C321382). Southchase filed a Notice of Intent on March 10, 2003 (WDID No. 9 37C320478).
3. Dischargers failed to implement or maintain Best Management Practices (BMPs) set forth in its Storm Water Pollution Prevention Plan, in violation of section C.2 of the Order for 135 days on July 19, 2004, August 13, 2004, and October 1, 2005 through February 10, 2005. The failure to install necessary BMPs resulted in six unauthorized discharges of sediment to the City of Oceanside’s Municipal Separate Storm Sewer System (MS4) and Pilgrim Creek, a tributary to the San Luis Rey River, in violation of Water Code section 13376 and section A.2 of the Order on November 16, 2004,

December 28, 2004, December 31, 2004, January 4, 2005, January 12, 2005, and January 20, 2005.

4. Consideration of the factors prescribed in California Water Code Section 13385(e) based upon information available to the Regional Board prior to the hearing supported assessment of civil liability in the amount of \$262,500 for Fieldstone and \$242,500 for Southchase as follows:
 - a. \$10,000 per day for discharging sediment to "Waters of the United States" for six days for Fieldstone and four days for Southchase for a total of \$60,000 and \$40,000; and
 - b. \$1,500 per day for failing to implement an adequate Storm Water Pollution Prevention Plan (SWPPP) for 135 days for a total of \$202,500 each;
5. By accepting the settlement offer tendered by the Dischargers, involving payment of less than the recommended civil liability without the need for a hearing, the Regional Board will conserve valuable staff resources that would have been allocated to preparation for the hearing and responding to any administrative or judicial review requested by the Dischargers; in addition, the Dischargers have brought the Morro Hills site into compliance with the Order and have agreed to ensure full compliance with the Order at all other current and future sites owned by the Dischargers within the State of California. Furthermore, the reduced amount of liability tendered by the Dischargers is sufficient to deter the Dischargers from future non-compliance, and should act as a deterrent to non-compliance by other developers.
6. Issuance of this Order is exempt from the provisions of the California Environmental Quality Act (Public Resources Code section 21000 et seq.) in accordance with section 15321, Chapter 3, Title 14, California Code of Regulations.
7. The Regional Board incurred costs totaling \$10,057, which includes investigation, preparation of enforcement documents, and communication with the discharger and interested parties regarding the enforcement action.

IT IS HEREBY ORDERED that civil liability is imposed on Fieldstone Communities, Inc. and Florida Southchase, L.P. in the amount of two hundred sixty-two thousand and five hundred dollars (\$262,500).

I, John H. Robertus, Executive Officer, do hereby certify the foregoing is a full, true, and correct copy of an Order imposing civil liability assessed by the California Regional Water Quality Control Board, San Diego Region, on June 8, 2005.

TENTATIVE

JOHN H. ROBERTUS
Executive Officer